

regulatory responsibilities and that the burden of maintaining separate accounts is no longer justified.

**EFFECTIVE DATE:** This action is effective on March 29, 1993.

**FOR FURTHER INFORMATION CONTACT:** Maynard Dixon, (202) 927-5293; Joseph Dettmar, (202) 927-5660 (TDD for hearing impaired: 202-927-5721.)

**SUPPLEMENTARY INFORMATION:** By notice served and published in the Federal Register on June 1, 1992, (57 FR 23072) we proposed to eliminate the requirement that private carriers engaged in incidental for-hire transportation must conduct such operations independently of their private operations and maintain separate records for each operation. Comments in support of the proposal were received from the National Private Truck Council and the National American Wholesale Grocers' Association, Inc. No comments were filed in opposition to the proposal. Based on the commentary, we find that the proposal is justified, and we adopt it.

Additional information is contained in the Commission's decision in Ex Parte No. MC-55 (Sub-No. 87). To purchase a copy of this decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services, (202) 927-5721.)

Pursuant to 5 U.S.C. 605(b), we reaffirm our initial finding that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. No new regulatory requirements are imposed, directly or indirectly, on such entities. The purpose of our proposal is to remove the burden of an unnecessary regulation from all private carriers holding operating authority, large and small. Because there is no reason to believe that the private firms holding operating authority or owning motor common carrier subsidiaries are predominantly small, the economic impact, if any, of our proposal is not likely to fall disproportionately on a substantial number of small entities.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

#### List of Subjects in 49 CFR Part 1004

Administrative practice and procedure, Motor carriers.

Decided: February 12, 1993

By the Commission, **Chairman Phillips**, Vice Chairman Simmons, Commissioners Phillips, McDonald, and Walden.  
**Sidney L. Strickland, Jr.**,  
Secretary.

For the reasons set out in the preamble, title 49, chapter X, part 1004 of the Code of Federal Regulations is amended as follows:

#### PART 1004—INTERPRETATIONS AND ROUTING REGULATIONS

1. The authority citation for part 1004 continues to read as follows:

Authority: 49 U.S.C. 10321 and 5 U.S.C. 553.

Subpart C also issued under 49 U.S.C. 10922(h)(1)(A).

#### § 1004.3 [Removed]

2. Section 1004.3 is removed.

[FR Doc. 93-4521 Filed 2-25-93; 8:45 am]

BILLING CODE 7035-01-M

#### DEPARTMENT OF THE INTERIOR

##### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AB75

#### Endangered and Threatened Wildlife and Plants; Endangered Status for the Cactus *Leptocereus grantianus*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

**SUMMARY:** The Service determines *Leptocereus grantianus* (no common name) to be an endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. This cactus is endemic to Culebra Island, Puerto Rico. Only one population, consisting of approximately 50 individuals, is known to occur on the southwestern coast of the island. It is threatened by proposed housing developments and erosion of its shoreline habitat. This final rule will implement the Federal protection and recovery provisions afforded by the Act for *Leptocereus grantianus*.

**EFFECTIVE DATE:** March 29, 1993.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours, at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueñon, Puerto Rico 00622; and at the Service's Southeast Regional Office, suite 1282, 75 Spring Street, SW., Atlanta, Georgia 30303.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Silander at the Caribbean Field Office address (809/851-7297).

#### SUPPLEMENTARY INFORMATION:

##### Background

*Leptocereus grantianus* was discovered on the island of Culebra in 1932 by Major Chapman Grant. It was later described by Nathaniel Britton from material cultivated by Grant. The population has been much reduced in numbers and areal extent over the years, and it has also died out in cultivation (Proctor 1991).

*Leptocereus grantianus* is a sprawling or suberect, nearly spineless cactus which may reach up to 2 meters in height and from 3 to 5 centimeters in diameter. The elongated stems have from three to five prominent ribs with broadly scalloped edges. Ribs of young joints are thin and the small areoles may bear from one to three minute, nearly black spines which disappear as the joints grow older. The flowers are solitary at terminal areoles, from 3 to 6 centimeters long, and nocturnal. The outer perianth segments are linear, green, and tipped by an areole like those of the tube and ovary. The inner perianth segments are numerous, cream-colored, oblong-obovate, obtuse and about 8 millimeters long. The fruit is subglobose to ellipsoid and about 4 centimeters in diameter (Britton 1933, Proctor 1991).

*Leptocereus grantianus* is endemic to Culebra, an island located just off the northeastern corner of Puerto Rico. On Culebra, only 1 population of approximately 50 individuals occurs in dry thickets along the rocky coast near Punta Melones (Proctor 1991). The island of Culebra is currently subject to intense pressure for rural and urban, as well as tourist, development. Housing projects are currently proposed for the area. The cactus is also threatened by erosion of the unstable, rocky slope.

*Leptocereus grantianus* was recommended for listing by Dr. George Proctor and Dr. Alain Liogier during a September 1988 meeting concerning the revision of the candidate plant species list in Puerto Rico and the U.S. Virgin Islands. It was subsequently included as a Category 1 species (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in the February 21, 1990 (55 FR 6184) notice of review. A proposed rule to list *Leptocereus grantianus* as endangered was published on May 20, 1992 (57 FR 21374).

##### Summary of Comments and Recommendations

In the May 20, 1992, proposed rule and associated notifications, all interested parties were requested to

submit factual reports of information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting general public comment was published in the San Juan Star on June 6, 1992, and in the El Día on June 3, 1992. Three letters of comment were received and are discussed below. A public hearing was neither requested nor held.

The Puerto Rico Department of Natural Resources supported the listing of *Leptocereus grantianus* and stated that no additional information on the species was available. The U.S. Forest Service stated that they had no comments on the listing of the species.

The U.S. Army Corps of Engineers (Corps), Jacksonville District, stated that the Corps had no actions proposed or under consideration at the site described in the proposed rule, and that according to that information the species is outside of the Corps' regulatory jurisdiction under the Clean Water Act.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Leptocereus grantianus* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Leptocereus grantianus* Britton are as follows:

##### A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

*Leptocereus grantianus* is found on privately owned land near the town of Dewey in an area subject to intense pressure for various types of development. Currently there is a proposal for home construction in the area where the cactus occurs.

##### B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The species has been cut in the past for livestock feed. In addition, its ornamental potential may result in take becoming a problem in the future (G. Proctor, pers. comm.).

##### C. Disease or Predation

Disease and predation have not been documented as factors in the decline of this species.

##### D. The Inadequacy of Existing Regulatory Mechanisms

The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. Federal listing would provide immediate protection and, if the species is ultimately placed on the Commonwealth list, enhance its protection and possibilities for funding needed research.

##### E. Other Natural or Manmade Factors Affecting its Continued Existence

The most important factors affecting the continued survival of this species is its limited distribution and limited numbers. Because so few individuals are known to occur in a limited area, the risk of extinction is extremely high. The steep rocky banks where the species is located are unstable and located close to the shoreline. Hurricane Hugo recently devastated Culebra and, although the impacts to this species were not documented, the passage of another hurricane might result in the elimination of this population.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Leptocereus grantianus* as endangered. Only 1 population consisting of 54 individuals is known to exist. Clearing for development is an imminent threat to the survival of the species. Therefore, endangered rather than threatened status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for this species are discussed below in the Critical Habitat section.

##### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time, as such a determination would result in no known benefit. The number of individuals of *Leptocereus grantianus* is sufficiently small that vandalism and collection could seriously affect the survival of the species. Publication of descriptions and maps required when

critical habitat is designated would only increase the potential from such threats, and therefore could contribute to the species' decline. There are no ongoing or proposed Federal actions that will affect the species, and it does not appear that any are likely in the foreseeable future. All involved parties and landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will be addressed through the recovery process, and also through the Section 7 jeopardy standard in the unlikely event that a Federal action should affect the species.

##### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, required Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for *Leptocereus grantianus*, as discussed above. Federal involvement is not anticipated where the species is known to occur.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general prohibitions and exceptions that apply to all endangered plants. All trade

prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. In addition, for endangered plants, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any Commonwealth law or regulation, including Commonwealth criminal trespass law. Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits for *Leptocereus grantianus* will ever be sought or issued, since the species is not known to be in cultivation and is uncommon in the wild. Requests for

copies of the regulations on listed plants and inquiries regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, room 432, Arlington, Virginia 22203 (703/358-2104).

#### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the *Federal Register* on October 25, 1993 (48 FR 49244).

#### References Cited

- Britton, N. 1933. An undescribed cactus of Culebra Island, Puerto Rico. *Cactus and Succ. Soc. Amer.* 5:469.  
Proctor, G. R. 1991. Status report on *Leptocereus grantianus* Britton. Unpublished status report submitted to the U.S. Fish and Wildlife Service, Boquerón, Puerto Rico. 8 pp.

#### Author

The primary author of this final rule is Ms. Susan Silander, Caribbean Field

Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851-7287).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

#### Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations is amended, as set forth below:

#### PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under Cactaceae, to the list of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cactaceae—Cactus family:						
<i>Leptocereus grantianus</i>	None	U.S.A. (PR)	E	491	NA	NA

Dated: February 4, 1993.

Richard N. Smith,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 93-4448 Filed 2-25-93; 8:45 am]

BILLING CODE 4910-65-M